

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0902-MLM-E TCEQ ID: RN103991634 CASE NO.: 33662
RESPONDENT NAME: AZTEC WASTE, INC.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATIONS OCCURRED: 13242 Lookout Road, San Antonio, Bexar County</p> <p>TYPE OF OPERATION: Municipal solid waste recycling facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints related to this enforcement action. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired June 22, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. Michael Meyer, Waste Enforcement Section, MC 128, (512) 239-4492</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Joel Anderson, San Antonio Regional Office, MC R-13, (210) 403-4010</p> <p style="margin-left: 20px;">Respondent: Mr. Heriberto Gonzales, President, Aztec Waste, Inc., 13242 Lookout Road, San Antonio, Texas 78233</p> <p style="margin-left: 20px;">Respondent's Attorneys: Ms. Helen S. Gilbert, Attorney at Law, 2206 Greenlee Drive, Austin, Texas 78703; Mr. Timothy L. Brown, Law Office of Timothy L. Brown, 1600 West 38th Street, Suite 206, Austin, Texas 78731</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint</p> <p><input checked="" type="checkbox"/> Routine</p> <p><input type="checkbox"/> Enforcement Follow-up</p> <p><input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 16, 2007</p> <p>Date of NOE Relating to this Case: May 16, 2007</p> <p>Background Facts: The EDPRP was filed November 1, 2007. The Respondent filed an answer and the case was referred to SOAH. The parties engaged in discovery. The agreed order was signed March 2, 2009.</p> <p>Current Compliance Status: Not yet in compliance</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to establish and maintain financial assurance for closure of a municipal solid waste recycling facility [30 TEX. ADMIN. CODE § 328.5(d)]. Failed to obtain authorization to operate a recycling facility [30 TEX. ADMIN. CODE §§ 328.4(a) and 328.5(a) and (b)]. Failed to prevent the discharge of municipal solid waste into or adjacent to water in the state [30 TEX. ADMIN. CODE § 330.15(a)(1) and TEX. WATER CODE § 26.121(a)]. 	<p>Total Assessed: \$3,210</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$3,210 The Respondent paid the administrative penalty in full.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, remove all solid waste disposed in the tributary of Beitel Creek and dispose of the waste at an authorized facility. Within 60 days, establish that it qualifies for exemption from 30 TEX. ADMIN. CODE chs. 330 and 332 permitting and registration requirements by meeting all applicable 30 TEX. ADMIN. CODE ch. 328 requirements, including, but not limited to: <ol style="list-style-type: none"> Submitting an acceptable Notice of Intent for the collection and processing of only non-putrescible source separated recyclable materials; establishing and maintaining acceptable financial assurance for closure of the Facility; and establishing and maintaining acceptable recordkeeping practices, keeping and organizing all trip tickets, including all rejected loads disposed, all loads of municipal solid waste that are transported for disposal to a landfill and all loads of recyclables that are transported to recyclers (end-users) and summarizing the information from these records on a monthly basis. Within 60 days, submit written certification demonstrating compliance with these Ordering Provisions.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

TCEQ

DATES	Assigned	14-May-2007	Screening	1-Jun-2007	EPA Due	
	PCW	16-Apr-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Aztec Waste, Inc.
Reg. Ent. Ref. No.	RN103991634
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33662	No. of Violations	3
Docket No.	2007-0902-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Michael Meyer
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	7.0% Enhancement	Subtotals 2, 3, & 7	\$210
---------------------------	------------------	--------------------------------	-------

Notes There was one NOV for same or similar violations and one NOV for dissimilar violations during the previous five years.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	-----

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0.0% Reduction	Subtotal 5	\$0
------------------------------------	----------------	-------------------	-----

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts	\$6,354	0.0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$6,315	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,210
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$3,210
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,210
-----------------------------------	-------------------------------	---------

DEFERRAL		Reduction	Adjustment	\$0
-----------------	--	------------------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$3,210
------------------------	---------

Screening Date 1-Jun-2007

Docket No. 2007-0902-MLM-E

PCW

Respondent Aztec Waste, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33662

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN103991634

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

There was one NOV for same or similar violations and one NOV for dissimilar violations during the previous five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 7%

Screening Date 1-Jun-2007		Docket No. 2007-0902-MLM-E		PCW																	
Respondent Aztec Waste, Inc.		<i>Policy Revision 2 (September 2002)</i>																			
Case ID No. 33662		<i>PCW Revision April 29, 2008</i>																			
Reg. Ent. Reference No. RN103991634																					
Media [Statute] Municipal Solid Waste																					
Enf. Coordinator Michael Meyer																					
Violation Number		<div style="border: 1px solid black; width: 100px; text-align: center;">1</div>																			
Rule Cite(s)		<div style="border: 1px solid black; padding: 5px;">30 Tex. Admin. Code § 330.15(a)(1) and Tex. Water Code § 26.121(a)</div>																			
Violation Description		<div style="border: 1px solid black; padding: 10px;">Failed to prevent the discharge of municipal solid waste into or adjacent to waters in the state, as documented during an investigation conducted on March 16, 2007. Specifically, the investigator observed approximately five cubic yards of municipal solid waste in a tributary of Beitel Creek.</div>																			
Base Penalty				<div style="border: 1px solid black; width: 100px; text-align: right;">\$10,000</div>																	
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Release</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> </tr> </table>				Major	Moderate	Minor	Release				Actual			x	Potential				Percent	<div style="border: 1px solid black; width: 100px; text-align: right;">10%</div>
		Major	Moderate	Minor																	
	Release																				
Actual			x																		
Potential																					
>> Programmatic Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> </tr> </table>				Major	Moderate	Minor	Falsification				Actual				Potential				Percent	<div style="border: 1px solid black; width: 100px; text-align: right;">0%</div>
		Major	Moderate	Minor																	
	Falsification																				
Actual																					
Potential																					
Matrix Notes		Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels as a result of the violation.																			
Adjustment				<div style="border: 1px solid black; width: 100px; text-align: right;">\$9,000</div>																	
				<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,000</div>																	
Violation Events																					
Number of Violation Events		<div style="border: 1px solid black; width: 100px; text-align: center;">1</div>	Number of violation days																		
		<div style="border: 1px solid black; width: 100px; text-align: center;">77</div>																			
mark only one with an x	daily	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>	Violation Base Penalty																		
	monthly	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>																			
	quarterly	x																			
	semiannual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>																			
	annual	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>																			
	single event	<div style="border: 1px solid black; width: 100px; height: 20px;"></div>																			
One quarterly event is recommended from the March 16, 2007 investigation to the June 1, 2007 screening date.																					
Economic Benefit (EB) for this violation			Statutory Limit Test																		
Estimated EB Amount		<div style="border: 1px solid black; width: 100px; text-align: right;">\$3</div>	Violation Final Penalty Total																		
			<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,070</div>																		
This violation Final Assessed Penalty (adjusted for limits)			<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,070</div>																		

Economic Benefit Worksheet

Respondent Aztec Waste, Inc.

Case ID No. 33662

Reg. Ent. Reference No. RN103991634

Media Municipal Solid Waste

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$65	16-Mar-2007	15-Mar-2008	1.00	\$3	n/a	\$3
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of approximately five cubic yards of municipal solid waste based on a cost of \$13 per cubic yard for disposal.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$65

TOTAL

\$3

Screening Date 1-Jun-2007 Respondent Aztec Waste, Inc. Case ID No. 33662 Reg. Ent. Reference No. RN103991634 Media [Statute] Municipal Solid Waste Enf. Coordinator Michael Meyer Violation Number <input type="text" value="2"/> Rule Cite(s) <input type="text" value="30 Tex. Admin. Code § 328.5(d)"/>	Docket No. 2007-0902-MLM-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision April 29, 2008</i>															
Violation Description <input style="width: 100%;" type="text" value="Failed to establish and maintain financial assurance for closure of a municipal solid waste recycling facility, as documented during an investigation conducted on March 16, 2007."/>																
Base Penalty <input style="width: 100%;" type="text" value="\$10,000"/>																
>> Environmental, Property and Human Health Matrix																
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major Moderate Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input style="width: 50px;" type="text"/></td> <td><input style="width: 50px;" type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input style="width: 50px;" type="text"/></td> <td><input style="width: 50px;" type="text"/></td> </tr> </table> <p style="text-align: right;">Percent <input style="width: 50px;" type="text" value="0%"/></p>		Harm		Release	Major Moderate Minor		Actual	<input style="width: 50px;" type="text"/>	<input style="width: 50px;" type="text"/>	Potential	<input style="width: 50px;" type="text"/>	<input style="width: 50px;" type="text"/>			
	Harm															
Release	Major Moderate Minor															
Actual	<input style="width: 50px;" type="text"/>	<input style="width: 50px;" type="text"/>														
Potential	<input style="width: 50px;" type="text"/>	<input style="width: 50px;" type="text"/>														
>> Programmatic Matrix																
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major Moderate Minor</td> </tr> <tr> <td></td> <td><input style="width: 50px;" type="text"/></td> <td><input style="width: 50px;" type="text"/></td> </tr> </table> <p style="text-align: right;">Percent <input style="width: 50px;" type="text" value="10%"/></p>		Falsification	Major Moderate Minor		<input style="width: 50px;" type="text"/>	<input style="width: 50px;" type="text"/>									
	Falsification	Major Moderate Minor														
	<input style="width: 50px;" type="text"/>	<input style="width: 50px;" type="text"/>														
<div style="border: 1px solid black; padding: 10px; min-height: 40px;"> 100 percent of the rule requirement was not met. </div>																
Adjustment <input style="width: 100%;" type="text" value="\$9,000"/>																
<input style="width: 100%;" type="text" value="\$1,000"/>																
Violation Events																
<table style="width: 100%;"> <tr> <td style="width: 40%;"> Number of Violation Events <input style="width: 50px;" type="text" value="1"/> </td> <td style="width: 20%; text-align: center;"> <input style="width: 50px;" type="text" value="77"/> </td> <td style="width: 40%;"> Number of violation days </td> </tr> </table> <div style="display: flex; align-items: flex-start; margin-top: 10px;"> <div style="margin-right: 10px;"> <i>mark only one with an x</i> </div> <table border="1" style="border-collapse: collapse;"> <tr><td style="padding: 2px 5px;">daily</td><td><input style="width: 50px;" type="text"/></td></tr> <tr><td style="padding: 2px 5px;">monthly</td><td><input style="width: 50px;" type="text"/></td></tr> <tr><td style="padding: 2px 5px;">quarterly</td><td><input style="width: 50px;" type="text"/></td></tr> <tr><td style="padding: 2px 5px;">semiannual</td><td><input style="width: 50px;" type="text"/></td></tr> <tr><td style="padding: 2px 5px;">annual</td><td><input style="width: 50px;" type="text"/></td></tr> <tr><td style="padding: 2px 5px;">single event</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> </table> </div> <p style="text-align: right; margin-top: 10px;">Violation Base Penalty <input style="width: 100%;" type="text" value="\$1,000"/></p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px; text-align: center;"> One single event is recommended. </div>		Number of Violation Events <input style="width: 50px;" type="text" value="1"/>	<input style="width: 50px;" type="text" value="77"/>	Number of violation days	daily	<input style="width: 50px;" type="text"/>	monthly	<input style="width: 50px;" type="text"/>	quarterly	<input style="width: 50px;" type="text"/>	semiannual	<input style="width: 50px;" type="text"/>	annual	<input style="width: 50px;" type="text"/>	single event	<input checked="" type="checkbox"/>
Number of Violation Events <input style="width: 50px;" type="text" value="1"/>	<input style="width: 50px;" type="text" value="77"/>	Number of violation days														
daily	<input style="width: 50px;" type="text"/>															
monthly	<input style="width: 50px;" type="text"/>															
quarterly	<input style="width: 50px;" type="text"/>															
semiannual	<input style="width: 50px;" type="text"/>															
annual	<input style="width: 50px;" type="text"/>															
single event	<input checked="" type="checkbox"/>															
Economic Benefit (EB) for this violation																
<table style="width: 100%;"> <tr> <td style="width: 50%;"> Estimated EB Amount <input style="width: 100%;" type="text" value="\$6,300"/> </td> <td style="width: 50%;"> Statutory Limit Test </td> </tr> <tr> <td></td> <td> Violation Final Penalty Total <input style="width: 100%;" type="text" value="\$1,070"/> </td> </tr> <tr> <td colspan="2"> This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100%;" type="text" value="\$1,070"/> </td> </tr> </table>		Estimated EB Amount <input style="width: 100%;" type="text" value="\$6,300"/>	Statutory Limit Test		Violation Final Penalty Total <input style="width: 100%;" type="text" value="\$1,070"/>	This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100%;" type="text" value="\$1,070"/>										
Estimated EB Amount <input style="width: 100%;" type="text" value="\$6,300"/>	Statutory Limit Test															
	Violation Final Penalty Total <input style="width: 100%;" type="text" value="\$1,070"/>															
This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100%;" type="text" value="\$1,070"/>																

Economic Benefit Worksheet

Respondent Aztec Waste, Inc.
Case ID No. 33662
Reg. Ent. Reference No. RN103991634
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]	\$6,000	16-Mar-2007	15-Jan-2008	1.00	\$300	\$6,000	\$6,300
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to establish and maintain financial assurance for the facility. The Date Required is the date of the investigation the Final Date is the estimated compliance date.

Approx. Cost of Compliance \$6,000
TOTAL \$6,300

Screening Date 1-Jun-2007 Respondent Aztec Waste, Inc. Case ID No. 33662 Reg. Ent. Reference No. RN103991634 Media [Statute] Municipal Solid Waste Enf. Coordinator Michael Meyer Violation Number 3 Rule Cite(s) 30 Tex. Admin. Code §§ 328.4(a) and 328.5(a) and (b) Violation Description Failed to obtain authorization to operate a recycling facility, as documented during an investigation conducted on March 16, 2007. Specifically, Aztec failed to submit to the TCEQ a notice of intent for the collection and processing of only putrescible source separated recyclable materials.	Docket No. 2007-0902-MLM-E <div style="text-align: right;">PCW</div> <div style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision April 29, 2008</div>																				
Base Penalty \$10,000																					
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 20%; text-align: center;">Release</td> <td style="width: 20%; text-align: center;">Harm</td> <td style="width: 20%; text-align: center;">Major</td> <td style="width: 20%; text-align: center;">Moderate</td> <td style="width: 20%; text-align: center;">Minor</td> <td style="width: 10%;"></td> </tr> <tr> <td></td> <td>Actual</td> <td></td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: right; vertical-align: middle;"> Percent 0% </td> </tr> <tr> <td></td> <td>Potential</td> <td></td> <td></td> <td></td> <td></td> </tr> </table>		Release	Harm	Major	Moderate	Minor			Actual					Percent 0%		Potential				
	Release	Harm	Major	Moderate	Minor																
	Actual					Percent 0%															
	Potential																				
>> Programmatic Matrix																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 20%; text-align: center;">Falsification</td> <td style="width: 20%; text-align: center;">Major</td> <td style="width: 20%; text-align: center;">Moderate</td> <td style="width: 20%; text-align: center;">Minor</td> <td style="width: 10%;"></td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;">x</td> <td></td> <td></td> <td rowspan="2" style="text-align: right; vertical-align: middle;"> Percent 10% </td> </tr> </table>		Falsification	Major	Moderate	Minor				x			Percent 10%								
	Falsification	Major	Moderate	Minor																	
		x			Percent 10%																
Matrix Notes	<div style="border: 1px solid black; padding: 5px; min-height: 40px;"> 100 percent of the rule requirement was not met. </div>																				
Adjustment \$9,000																					
<div style="border: 1px solid black; width: 100px; height: 20px; margin-left: auto;">\$1,000</div>																					
Violation Events																					
<div style="display: flex; justify-content: space-between;"> <div> Number of Violation Events 1 </div> <div> Number of violation days 77 </div> </div> <div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px; font-size: small;"> mark only one with an x </div> <table border="1" style="border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="width: 40px;"></td></tr> <tr><td style="padding: 2px;">monthly</td><td></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="text-align: center;">x</td></tr> <tr><td style="padding: 2px;">semiannual</td><td></td></tr> <tr><td style="padding: 2px;">annual</td><td></td></tr> <tr><td style="padding: 2px;">single event</td><td></td></tr> </table> <div style="margin-left: 20px; text-align: right;"> Violation Base Penalty \$1,000 </div> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> One quarterly event is recommended from the March 16, 2007 investigation to the June 1, 2007 screening date. </div>		daily		monthly		quarterly	x	semiannual		annual		single event									
daily																					
monthly																					
quarterly	x																				
semiannual																					
annual																					
single event																					
<div style="display: flex; justify-content: space-between;"> Economic Benefit (EB) for this violation Statutory Limit Test </div>																					
<div style="display: flex; justify-content: space-between;"> <div> Estimated EB Amount \$51 </div> <div> Violation Final Penalty Total \$1,070 </div> </div>																					
This violation Final Assessed Penalty (adjusted for limits) \$1,070																					

Economic Benefit Worksheet

Respondent Aztec Waste, Inc.
Case ID No. 33662
Reg. Ent. Reference No. RN103991634
Media Municipal Solid Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	31-Dec-2003	15-Jan-2008	4.04	\$51	n/a	\$51

Notes for DELAYED costs

Estimated cost to develop and implement a plan for managing recyclable materials to protect them from degradation. The Date Required is the March 16, 2007 investigation and the Final Date is the estimated compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$51

Compliance History

Customer/Respondent/Owner-Operator:	CN603188392 AZTEC WASTE, INC.	Classification:	Rating:
Regulated Entity:	RN103991634 AZTEC WASTE INC	Classification: AVERAGE	Site Rating: 3.00
<hr/>			
ID Number(s):			
Location:	13242 LOOKOUT RD, SAN ANTONIO, TX, 78233	Rating Date: September 01 06	Repeat Violator:
		NO	
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	June 08, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 09, 2002 to June 08, 2007		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Michael Meyer Phone: (512) 239-4492

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 05/09/2007 (558405)

2 05/21/2007 (560415)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/07/2003 (253383)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter A 328.5(b)[G]

Description: Failure to notify the commission of the facilitys intent to operate a recycling facility as required in 328.5(b).

Date: 05/21/2007 (560415)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Description: Failure to obtain authorization to discharge storm water associated with an industrial activity. Your regulated activity (SIC 5093- Scrap and Waste Recycling Facilities) requires coverage under the Multi-Sector General Permit, TXR050000, Sector N

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AZTEC WASTE, INC.;
RN103991634

BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

§
§
§
§
§
§

AGREED ORDER DOCKET NO. 2007-0902-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aztec Waste, Inc. ("Aztec") under the authority of TEX. WATER CODE chs. 7 and 26, and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, through the Enforcement Division, and Aztec, represented by Timothy L. Brown of the Law Office of Timothy L. Brown and Helen S. Gilbert, Attorney at Law, appear before the Commission and together stipulate that:

1. Aztec owns and operates a municipal solid waste recycling facility located at 13242 Lookout Road in San Antonio, Bexar County, Texas ("Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361, TEX. WATER CODE ch. 26, and TCEQ rules.
3. The Commission and Aztec agree that the Commission has jurisdiction to enter this Agreed Order, and that Aztec is subject to the Commission's jurisdiction.
4. Aztec received notice of the violations alleged in Section II ("Allegations") on or about May 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Aztec of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of three thousand two hundred ten dollars (\$3,210.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Aztec has paid three thousand two hundred ten dollars (\$3,210.00) of the administrative penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Aztec have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Aztec has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on March 16, 2007, a TCEQ investigator documented that Aztec violated:
 - a. 30 TEX. ADMIN. CODE § 328.5(d) by failing to establish and maintain financial assurance for closure of a municipal solid waste recycling facility;
 - b. 30 TEX. ADMIN. CODE §§ 328.4(a) and 328.5(a) and (b) by failing to obtain authorization to operate a recycling facility. Specifically, Aztec does not have an approved Notice of Intent for the collection and processing of only non-putrescible source separated recyclable materials;
 - c. 30 TEX. ADMIN. CODE § 330.15(a)(1) and TEX. WATER CODE § 26.121(a) by failing to prevent the discharge of municipal solid waste into or adjacent to water in the state. Specifically, the investigator observed approximately five cubic yards of municipal solid waste disposed in a tributary of Beitel Creek.

III. DENIALS

Aztec generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Aztec pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Aztec's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Aztec Waste, Inc., Docket No. 2007-0902-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Aztec has agreed and shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Aztec shall remove all solid waste disposed in the tributary of Beitel Creek and dispose of the waste at an authorized facility;
 - b. Within 60 days after the effective date of this Agreed Order, Aztec shall establish that it qualifies for exemption from 30 TEX. ADMIN. CODE chs. 330 and 332 permitting and registration requirements by meeting all applicable 30 TEX. ADMIN. CODE ch. 328 requirements, including, but not limited to:
 - i. submitting an acceptable Notice of Intent for the collection and processing of only non-putrescible source separated recyclable materials;
 - ii. establishing and maintaining acceptable financial assurance for closure of the Facility; and
 - iii. establishing and maintaining acceptable recordkeeping practices, keeping and organizing all trip tickets, including all rejected loads disposed, all loads of municipal solid waste that are transported for disposal to a landfill and all loads of recyclables that are transported to recyclers (end-users) and summarizing the information from these records on a monthly basis.
 - c. Within 60 days after the effective date of this Agreed Order, Aztec shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate

compliance with Ordering Provision Nos. 2.a. through 2.b.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Joel Anderson, Municipal Solid Waste Section, Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon Aztec. Aztec is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Aztec fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Aztec's failure to comply is not a violation of this Agreed Order. Aztec shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Aztec shall notify the Executive Director within seven days after Aztec becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Aztec shall be made

in writing to the Executive Director. Extensions are not effective until Aztec receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Aztec in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Aztec, or three days after the date on which the Commission mails notice of the Order to Aztec, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/20/2009

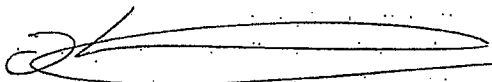
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Aztec's compliance history;
- Greater scrutiny of any permit applications submitted by Aztec;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Aztec;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Aztec; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

3/2/09

Date

Heberto Gonzalez Jr.

Name (Printed or typed)

Authorized representative of

Aztec Waste, Inc.

Vice President

Title